

# **SAFETY AWARENESS BOARD**

## **Minutes**

**Wednesday, December 8, 2004**

**9:00 a.m.**

**In attendance: Joseph Sabitoni**

**Bernard Trembl**

**Dan Jones**

**Robin Melfi**

**Wayne Coulombe**

**Nick Giardino**

**James Jackson**

**Chairperson, Joseph Sabitoni called the meeting to order at 9:15 a.m.**

**There is a quorum. All members were in attendance for today's meeting, with the exception of Ed Ladouceur and Eric Anderson.**

**The first order of business today is acceptance of minutes of the Wednesday, November 10, 2004, meeting. Everyone had an opportunity to review the minutes. Ms. Robin Melfi made motion to approve the minutes as submitted. Mr. Nick Giardino seconded the motion. All members voted in favor.**

**The next order of business is appeal hearings. There are five (5) appeal hearings on the agenda for today all pertaining to the same**

project, for which there is a court reporter. There was an additional appeal hearing scheduled for today, which was inadvertently left off the agenda. That appeal relates to Mr. Tiberio M. Lopes. An Appeal hearing was also scheduled for today pertaining to Chicago Bridge and Iron (CB & I). This was postponed until the Wednesday, January 12, 2005 meeting of the Safety Awareness Board. Mr. Sabitoni explained the Board's procedures for conducting appeal hearings. Mr. Karl Swanson, Prevailing Wage Examiner, was sworn in by the court reporter.

#### **APPEAL HEARING:**

Mr. Derek Delmonico was in attendance on behalf of RAD Corporation. Mr. Delmonico informed the Board that he would be representing all of the employees involved in this matter as well as RAD Corporation. The employees did not want to lose a day of work, and asked that he represent them.

Mr. Swanson explained to the Board that testimony was taken at the Wednesday, November 10, 2004 meeting of the Safety Awareness Board, however, there was some concerns by the Board, and several pieces of information were requested by the Board prior to making a recommendation on this issue.

Several concerns by the Board were brought up:

**1) Upon being told that they were in violation, R.A.D. Corporation managed to have an OSHA 10-hour course scheduled for the very next day. The Board was surprised that an OSHA 10-hour course could be put together in such a short time frame.**

**2) The entire ten (10) hour course was conducted in one (1) day, which is not normally done.**

**3) The OSHA 10-hour cards, which were issued to the employees, were dated June 17, 2004. The class did not take place until August 25, 2004.**

**Mr. Swanson informed the Board that he spoke to Mr. David Allen Nealy of F.G.M. Safe Harbors, who is the instructor that conducted the OSHA 10-hour course for R.A.D. Corporation, and Mr. Nealy was in attendance at today's meeting. Mr. Nealy provided Mr. Swanson with a letter informing him that the incorrect date on the cards was a clerical error made by F.G.M. Safe Harbors. It was not the mistake of R.A.D. Corporation. Mr. Nealy has since corrected the error on the OSHA 10-hour cards. In addition, Mr. Swanson was provided with a copy of the back and front of the cancelled check, a copy of the invoice from F.G.M. Safe Harbors, an attendance roster with the signatures of all employees who attended the OSHA 10-hour course.**

**Mr. Delmonico stated that all of the individuals who were in violation took the OSHA 10-hour course with the exception of Ms. Tina Ellis,**

who will not be working on prevailing wage projects in Rhode Island in the future.

Mr. Trembl and Mr. Coulombe stated that there have been incidents where OSHA 10-hour training accomplished in one (1) day. It is a long day, but it can be done. It is usually done in emergency situations, where the contractor has to get back on the job.

It was also brought up by the Board that the course was put together in one (1) day which is usually difficult to do, but Mr. Swanson stated that he has been seeing more incidents of that happening. There are companies out there who train, who can put an OSHA 10-hour course together in one (1) day.

Mr. Robert A. Delmonico was sworn in by the court reporter. Mr. Swanson read the violation. On August 24, 2004, Mr. Swanson visited the Westerly High School Football Complex, Westerly, RI and found five (5) employees of RAD Corporation working on the project without OSHA 10-hour certification. Those individuals identified themselves as Mr. Gordon Cowie, Ms. Tina Ellis, Mr. Anthony C. Demelo, Mr. Tiberio M. Lopes, and Mr. Jose I. Depaiva. All five (5) of the individuals were advised of the alleged violations, as was the Director of Buildings & Grounds for the Town of Westerly, Mr. John Sutcliffe. RAD Corporation was fined \$500 for each of the five (5) violations for a total of \$2,500. Additionally, each of the employees was individually fined \$250 apiece.

**Mr. Delmonico stated that it was explained to him that when they did the job they did not know they had to have the OSHA 10-hour certification. When they found out, they contacted an independent person to give them the training. They got the cards and went back to work. Mr. Delmonico said this is the first time they ever worked in Rhode Island. Their contract was with the school, and there was nothing in the contract about the OSHA 10-hour training requirement.**

**Mr. Giardino stated that based on the testimony presented, although there was a finding of fact by the Board that these violations did occur, the speed with which R.A.D. Corporation rectified the situation showed due diligence, a motion be made to recommend to the Director that the \$500 fine for each of the five (5) violations, for a total of \$2,500 issued to R.A.D. Corporation and the \$250 fines issued to each of the five (5) individuals be suspended for a 12-month period pending**

**any further violations. Ms. Melfi seconded the motion. All members voted in favor, with the exception of Mr. Jackson, who voted in opposition.**

**Mr. Delmonico was informed that this law has been in effect in Rhode Island for over two (2) years, and that Massachusetts just adopted it. The cards his employees received will cover him in Massachusetts.**

**This concluded the appeal hearings.**

**There was no further business before the Board.**

**Mr. Giardino made a motion to adjourn at 9:40 a.m. Ms. Melfi seconded the motion. All members voted in favor.**

**The next meeting of the Board of Safety Awareness is scheduled for Wednesday, January 12, 2005 at 9:00 a.m. in Building 70 of the RI Department of Labor & Training, Second Floor Conference Room, 1511 Pontiac Avenue, Cranston, RI 02920.**